IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SECOND DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

WRIT PETITION NO : 13861 of 1994

Between:

Karre Lachanna s/o. Rajaiah
Luxettipet, ADILABAD (DIST)

..... PETITIONER

AND

Bar Council of State of Andhra Pradesh, Hyderabad rep. by its Secretary.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an order or direction more particularly one in the nature of writ of Mandamus declaring that the proceedings in complaint case No. 61/93 on the file of Disciplinary Committee No.IV of the Bar Council of the State of Andhra Pradesh, Hyderabad is bad, illegal and against the principles of natural justice.

Counsel for the Petitioner:MR.P.PRABHAKAR REDDY

Counsel for the Respondent: MR.S.BHARAT KUMAR

The Court made the following :

ORDER:

One Dasari Shankaraiah filed a complaint against the writ petitioner, who is a practising Advocate, alleging that the petitioner after borrowing the scooter from him, sold it to one Budda Chinnaiah, S/o. Chandraiah for a consideration of Rs.9,500/-, who in turn, sold it away to a timber merchant, Mr. Rama Koteswar Rao, S/o.Satyanarayana. In the complaint, it is further alleged that the writ petitioner had threatened the said Budda Chinnaiah to get him involved in a criminal case.

On a complaint filed before the police, the writ petitioner was also charged for the offence punishable under Sections 420 and 406 of I.P.C. This writ petition is filed challenging the disciplinary proceedings initiated by the Bar Council, on the ground that the proceedings in C.C.No.334 of 1993, on the file of the learned Judicial First Class Magistrate, Luxettipet, and the disciplinary proceedings initiated before the Bar Council, cannot be allowed to simultaneously persist. It is now brought to the notice of the Court that C.C.No.334 of 1993 filed against the petitioner ended in acquittal.

The mere fact that C.C.No.334 of 1993 filed against the petitioner ended in acquittal is not a ground to quash the very disciplinary proceedings. The Disciplinary Committee, making enquiry into the allegations, may be required to take the judgment rendered in C.C.No.334 of 1993 also into consideration, along with other material that may be available for perusal of the Committee. It is clear from the record that the allegations levelled against the petitioner were examined by the Bar Council in its meeting, held on 27-03-1994, and found *prima facie* reasons to believe that the petitioner has been guilty of misconduct and therefore, referred the matter to the Disciplinary Committee for disposal in accordance with law. The very proceedings initiated against the petitioner cannot be quashed at this stage. This Court cannot go into the merits and evaluate the truth or otherwise of the allegations levelled against the petitioner in the complaint. The same is required to be gone into by the Bar Council in exercise of its disciplinary jurisdiction.

Section 35 of the Advocates Act, 1961 (for short 'the Act'), which prescribes the punishment for misconduct of Advocates says that "Where on receipt of a complaint or otherwise the State Bar Council has reason to believe that any advocate on its roll has been guilty of professional or other misconduct, it shall refer the case for disposal to its disciplinary committee".

In exercise of this power conferred under Section 35 of the Act, the Bar Council had referred the case for disposal to its Disciplinary Committee.

I find no merit in the submission that the Bar Council has power to initiate disciplinary proceedings against the Advocates only for their professional misconduct. The Section is so wide that the Bar Council is conferred with the jurisdiction to make an enquiry into the professional or 'other misconduct' of any Advocate. In the instant case the allegation is that the petitioner threatened Budda Chinnaiah that he would be implicated in a criminal case. If the allegation is proved, it may amount to even professional misconduct for the petitioner, who is alleged to have threatened the said Budda Chinnaiah by abusing his position as an Advocate.

Viewed from any angle, I find no merit in this writ petition. The very disciplinary proceedings initiated against the petitioner cannot be quashed at this stage on any ground. It is for the Disciplinary Committee to take an appropriate decision in the matter, in accordance with law, after making an enquiry, for which purpose, reasonable opportunity may have to be provided to the petitioner. It shall be open to the petitioner to have his defence, which shall duly be taken into consideration by the Disciplinary Committee. The matter shall be disposed of on its own merits, uninfluenced by the observations, if any, made in this order.

For the aforesaid reasons, the writ petition is dismissed. No order as to costs.

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B. SUDERSHAN REDDY, J

Date: 02-12-2004

Vs/pv

To
1. The Secretary, Bar Council of State of Andhra Pradesh,
Hyderabad.

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